

## RBS and RUS, USDA

## §4287.101

upon physical or mental handicap in Federally assisted programs;

(k) 35 U.S.C. 200 *et seq.*—Bayh-Dole Act, controlling allocation of rights to inventions made by employees of small business firms and domestic nonprofit organizations, including universities, in Federally assisted programs (implementing regulations are contained in 37 CFR part 401).

### § 4285.94 Other conditions.

*Post-award requirements.* Upon awarding the cooperative agreement, the post-award requirements of subparts C and D of part 3016 of this title apply.

### §§ 4285.95–4285.99 [Reserved]

### § 4285.100 OMB control number.

The reporting and recordkeeping requirements contained in this regulation have been approved by the Office of Management and Budget (OMB) and have been assigned OMB control number 0570-0005. Public reporting burden for this collection of information is estimated to vary from 10 minutes to 36 hours per response with an average of 3.48 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Department of Agriculture, Clearance Officer, OIRM, Ag Box 7630, Washington, DC 20250; and to the Office of Management and Budget, Paperwork Reduction Project (OMB #0570-0005), Washington, DC 20503.

## PART 4287—SERVICING

### Subpart A [Reserved]

### Subpart B—Servicing Business and Industry Guaranteed Loans

Sec.

- 4287.101 Introduction.
- 4287.102 Definitions.
- 4287.103 Exception authority.
- 4287.104–4287.105 [Reserved]
- 4287.106 Appeals.
- 4287.107 Routine servicing.
- 4287.108–4287.111 [Reserved]
- 4287.112 Interest rate adjustments.

- 4287.113 Release of collateral.
- 4287.114–4287.122 [Reserved]
- 4287.123 Subordination of lien position.
- 4287.124 Alterations of loan instruments.
- 4287.125–4287.133 [Reserved]
- 4287.134 Transfer and assumption.
- 4287.135 Substitution of lender.
- 4287.136–4287.144 [Reserved]
- 4287.145 Default by borrower.
- 4287.146–4287.155 [Reserved]
- 4287.156 Protective advances.
- 4287.157 Liquidation.
- 4287.158 Determination of loss and payment.
- 4287.159–4287.168 [Reserved]
- 4287.169 Future recovery.
- 4287.170 Bankruptcy.
- 4287.171–4287.179 [Reserved]
- 4287.180 Termination of guarantee.
- 4287.181–4287.199 [Reserved]
- 4287.200 OMB control number.

AUTHORITY: 5 U.S.C. 301; 7 U.S.C. 1989

SOURCE: 61 FR 67648, Dec. 23, 1996, unless otherwise noted.

### Subpart A [Reserved]

### Subpart B—Servicing Business and Industry Guaranteed Loans

#### § 4287.101 Introduction.

(a) This subpart supplements part 4279, subparts A and B, by providing additional requirements and instructions for servicing and liquidating all Business and Industry (B&I) Guaranteed Loans. This includes Drought and Disaster (D&D), Disaster Assistance for Rural Business Enterprises (DARBE), and Business and Industry Disaster (BID) loans.

(b) The lender will be responsible for servicing the entire loan and will remain mortgagee and secured party of record notwithstanding the fact that another party may hold a portion of the loan. The entire loan will be secured by the same security with equal lien priority for the guaranteed and unguaranteed portions of the loan. The unguaranteed portion of a loan will neither be paid first nor given any preference or priority over the guaranteed portion of the loan.

(c) Copies of all forms, regulations, and instructions referenced in this subpart are available in any Agency office. Whenever a form is designated in this subpart, that designation includes

## § 4287.102

predecessor and successor forms, if applicable, as specified by the field or National Office.

### § 4287.102 Definitions.

The definitions and abbreviations contained in § 4279.2 of subpart A of part 4279 of this chapter apply to this subpart.

### § 4287.103 Exception authority.

Section 4279.15 of subpart A of part 4279 of this chapter applies to this subpart.

### §§ 4287.104–4287.105 [Reserved]

### § 4287.106 Appeals.

Section 4279.16 of subpart A of part 4279 of this chapter applies to this subpart.

### § 4287.107 Routine servicing.

The lender is responsible for servicing the entire loan and for taking all servicing actions that a prudent lender would perform in servicing its own portfolio of loans that are not guaranteed. The Loan Note Guarantee is unenforceable by the lender to the extent any loss is occasioned by violation of usury laws, use of loan funds for unauthorized purposes, negligent servicing, or failure to obtain the required security interest regardless of the time at which the Agency acquires knowledge of the foregoing. This responsibility includes but is not limited to the collection of payments, obtaining compliance with the covenants and provisions in the Loan Agreement, obtaining and analyzing financial statements, checking on payment of taxes and insurance premiums, and maintaining liens on collateral.

(a) *Lender reports.* The lender must report the outstanding principal and interest balance on each guaranteed loan semiannually using Form FmHA 1980-41, "Guaranteed Loan Status Report."

(b) *Loan classification.* Within 90 days of receipt of the Loan Note Guarantee, the lender must notify the Agency of the loan's classification or rating under its regulatory standards. Should the classification be changed at a future time, the Agency must be notified immediately.

## 7 CFR Ch. XLII (1–1–05 Edition)

(c) *Agency and lender conference.* At the Agency's request, the lender will meet with the Agency to ascertain how the guaranteed loan is being serviced and that the conditions and covenants of the Loan Agreement are being enforced.

(d) *Financial reports.* The lender must obtain and forward to the Agency the financial statements required by the Loan Agreement. The lender must submit annual financial statements to the Agency within 120 days of the end of the borrower's fiscal year. The lender must analyze the financial statements and provide the Agency with a written summary of the lender's analysis and conclusions, including trends, strengths, weaknesses, extraordinary transactions, and other indications of the financial condition of the borrower. Spreadsheets of the new financial statements must be included.

(e) *Additional expenditures.* The lender will not make additional loans to the borrower without first obtaining the prior written approval of the Agency, even though such loans will not be guaranteed.

### §§ 4287.108–4287.111 [Reserved]

### § 4287.112 Interest rate adjustments.

(a) *Reductions.* The borrower, lender, and holder (if any) may collectively initiate a permanent or temporary reduction in the interest rate of the guaranteed loan at any time during the life of the loan upon written agreement among these parties. The Agency must be notified by the lender, in writing, within 10 calendar days of the change. If any of the guaranteed portion has been purchased by the Agency, then the Agency will affirm or reject interest rate change proposals in writing. The Agency will concur in such interest-rate changes only when it is demonstrated to the Agency that the change is a more viable alternative than initiating or proceeding with liquidation of the loan or continuing with the loan in its present state.

(1) Fixed rates can be changed to variable rates to reduce the borrower's interest rate only when the variable rate has a ceiling which is less than or equal to the original fixed rate.